

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

WESTERN WORLD INSURANCE
COMPANY

Plaintiff,

vs.

QBE SPECIALTY INSURANCE
COMPANY

Defendant

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CIVIL ACTION NO. 2:19-cv-202

INDEX OF DOCUMENTS FILED IN STATE COURT

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|----|-------------------------------|---------------------|
| 1. | Plaintiff's Original Petition | Filed June 6, 2019 |
| 2. | Defendant's Original Answer | Filed July 26, 2019 |

S-19-5603CV-C

Cause No. _____

WESTERN WORLD INSURANCE COMPANY	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	San Patricio County - 343rd District Court
	§	
vs.	§	____ JUDICIAL DISTRICT
	§	
QBE SPECIALTY INSURANCE COMPANY	§	
	§	
Defendant.	§	SAN PATRICIO COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION, REQUESTS FOR DISCLOSURE, AND
REQUESTS FOR ADMISSION**

COMES NOW Plaintiff Western World Insurance Company and files this Original Petition, Requests for Disclosure, and Requests for Admission against Defendant QBE Specialty Insurance Company, and would respectfully show the Court as follows:

PLAINTIFF'S ORIGINAL PETITION

DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 3, Texas Rules of Civil Procedure 190.4.

NATURE OF ACTION

2. This case is a damages and declaratory judgment action in which QBE has wrongfully declined to participate in indemnification of the mutual insureds' Hurricane Harvey losses. Despite issuing an insurance policy to the mutual insureds that was in effect when Hurricane Harvey severely damaged the mutual insureds' realty and personal property located in San Patricio County, QBE has wrongfully failed to participate with Western World in indemnifying the mutual insureds' losses. In contrast, Western World timely investigated, estimated, and paid the mutual insureds' losses. Western World is therefore entitled to recover from QBE of QBE's share of those losses and Western World's attorney fees incurred in seeking QBE's participation in indemnification of the losses.

Processed On: 6/20/2019 12:09 PM
By: Melinda Barrientes, Deputy Clerk

- 1 -

Filed 6/6/2019 6:06 PM
Heather B. Marks
District Clerk
San Patricio County, Texas

THE PARTIES

3. Western World is an authorized surplus lines insurer doing business in Texas.

4. QBE is a surplus lines insurer engaged in the business of insurance in Texas that does not maintain a registered agent for service of process. Accordingly, QBE may be served by service upon QBE Specialty Insurance Company through the Texas Commissioner of Insurance: Chief Clerk Office, 333 Guadalupe MC 113-2A, P.O. Box 149104, Austin, Texas 78714-9104. Plaintiff requests service on QBE at this time.

JURISDICTION, STANDING, AND VENUE

5. The Court has jurisdiction over Defendant QBE because it engages in the business of insurance in the State of Texas, and the causes of action arise out of Defendant's business activities in the state, including those in San Patricio County with reference to this specific case.

6. Venue is proper in San Patricio County because the mutual insureds' Hurricane Harvey loss location property is located in San Patricio County, and all or a substantial part of the events giving rise to this lawsuit occurred in San Patricio County. TEX. CIV. PRAC. & REM. CODE §15.032.

FACTS

7. QBE issued its insurance policy number QSN3052801 to the mutual insureds, Tiare Bordes and Steven Couchman, for a policy period that included August 25, 2017, the date when Hurricane Harvey devastated much of the Texas Gulf Coast, including the mutual insureds' realty and personal possessions at the loss location, 2090 E HWY 361, Aransas Pass TX 78336. The mutual insureds submitted their claims to QBE, which assigned claim number 525545N to the losses and dispatched an adjuster to examine the property. The mutual insureds also submitted their claims to Western World, which had also issued a policy (No. VHO0000138) to the mutual insureds that was in effect on the loss date.

8. QBE has wrongfully failed to participate with Western World in indemnifying the mutual insureds' Hurricane Harvey losses. In contrast, Western World timely investigated, estimated, and paid the mutual insureds' losses. Western World is therefore entitled to recovery from QBE of QBE's share of those losses. QBE is obligated to share in the mutual insureds' Hurricane Harvey losses, which to date have been paid entirely by Western World. QBE issued an equally applicable property insurance policy to the mutual insureds that was in effect on the loss date, and therefore the QBE policy must share in the loss on a pro rata basis with the Western World policy under Texas law. QBE owes Western World the portion of the total loss payments amounts corresponding to the applicable limits of the QBE policy in relation to the limits of the Western World policy.

CAUSES OF ACTION AGAINST QBE

9. To date Western World has paid all of the mutual insureds' Hurricane Harvey losses. QBE has paid none. Western World is subrogated to the mutual insureds' rights against QBE. In addition, Western World has a direct right of contribution against QBE. Western World is entitled to recover QBE's share of the total loss payments amounts that Western World has made to the mutual insureds corresponding to the applicable limits of the QBE policy in relation to the limits of the Western World policy.

10. Western World is also entitled to recoup its attorney's fees pursuant to TEX. CIV. PRAC. & REM. CODE §§ 37.001 – 37.011 and 38.001 – 38.006.

REQUESTS FOR DISCLOSURE

11. Under Texas Rules of Civil Procedure 190 and 194, Plaintiff requests that Defendant disclose, within fifty (50) days from the date this request is served, the information or material described in Rules 190.2(b)(6) and 194.2.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff Western World Insurance

Company prays that:

- A. Defendant QBE Specialty Insurance Company be served with process as required by law;
- B. the Court determine that QBE has a duty to share in indemnification of the mutual insureds' Hurricane Harvey losses as alleged above;
- C. the Court award Plaintiff Western World its attorney's fees;
- D. the Court award such further relief as the Court deems necessary and proper.

Respectfully submitted,

By: s/Robert G. Hogue

Robert G. Hogue
State Bar No. 09811050

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COUNSEL FOR PLAINTIFF WESTERN WORLD
INSURANCE COMPANY

REQUESTS FOR ADMISSION

To: Defendant QBE Specialty Insurance Company, via service upon QBE Specialty Insurance Company through the Texas Commissioner of Insurance: Chief Clerk Office, 333 Guadalupe MC 113-2A, P.O. Box 149104, Austin, Texas 78714-9104.

The plaintiff hereby requests that you answer the following requests for admission within 50 days of service of these requests, in accordance with TEX. R.CIV. P. 198:

REQUEST FOR ADMISSION NO. 1: Admit that QBE Specialty Insurance Company issued its policy number QSN3052801.

RESPONSE:

REQUEST FOR ADMISSION NO. 2: Admit that QBE Specialty Insurance Company policy number QSN3052801 was in effect from August 18, 2017 to August 18, 2018.

RESPONSE:

REQUEST FOR ADMISSION NO. 3: Admit that on or about August 25, 2017 Hurricane Harvey damaged the insured location under QBE Specialty Insurance Company policy number QSN3052801.

RESPONSE:

REQUEST FOR ADMISSION NO. 4: Admit that on or about August 25, 2017 Hurricane Harvey damaged personal property at the insured location under QBE Specialty Insurance Company policy number QSN3052801.

RESPONSE:

REQUEST FOR ADMISSION NO. 5: Admit that QBE Specialty Insurance Company was notified of claims under QBE Specialty Insurance Company policy number QSN3052801 resulting from Hurricane Harvey.

RESPONSE:

REQUEST FOR ADMISSION NO. 6: Admit that QBE Specialty Insurance Company assigned claim number 525545N to the claims under QBE Specialty Insurance Company policy number QSN3052801 resulting from Hurricane Harvey.

RESPONSE:

REQUEST FOR ADMISSION NO. 7: Admit that QBE Specialty Insurance Company dispatched an adjuster to the insured location under QBE Specialty Insurance Company policy number QSN3052801 to inspect the claims resulting from Hurricane Harvey.

RESPONSE:

REQUEST FOR ADMISSION NO. 8: Admit that Western World Insurance Company has so far paid all of the Hurricane Harvey claims on the insured location shown on QBE Specialty Insurance Company policy number QSN3052801.

RESPONSE:

REQUEST FOR ADMISSION NO. 9: Admit that Western World Insurance Company has so far paid all of the Hurricane Harvey claims on the personal property at the insured location shown on QBE Specialty Insurance Company policy number QSN3052801.

RESPONSE:

REQUEST FOR ADMISSION NO. 10: Admit that QBE Specialty Insurance Company has so far paid none of the Hurricane Harvey claims on the insured location shown on QBE Specialty Insurance Company policy number QSN3052801.

RESPONSE:

REQUEST FOR ADMISSION NO. 11: Admit that QBE Specialty Insurance Company has so far paid none of the Hurricane Harvey claims on the personal property at the insured location shown on QBE Specialty Insurance Company policy number QSN3052801.

RESPONSE:

REQUEST FOR ADMISSION NO. 12: Admit that Western World Insurance Company has paid \$598,400.72 on the Hurricane Harvey claims on the insured location and personal property at the insured location shown on QBE Specialty Insurance Company policy number QSN3052801.

RESPONSE:

Respectfully submitted,

By: s/Robert G. Hogue

Robert G. Hogue
State Bar No. 09811050

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COUNSEL FOR PLAINTIFF WESTERN WORLD
INSURANCE COMPANY

CAUSE NO. S-19-5603CV-C

WESTERN WORLD INSURANCE
COMPANY,

Plaintiff,

vs.

QBE SPECIALTY INSURANCE
COMPANY

Defendant

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IN THE DISTRICT COURT

343RD JUDICIAL DISTRICT

SAN PATRICIO COUNTY, TEXAS

ORIGINAL ANSWER OF DEFENDANT QBE SPECIALTY INSURANCE COMPANY

TO THE HONORABLE JUDGE OF SAID COURT

COME NOW QBE SPECIALTY INSURANCE COMPANY, Defendant in the above styled and numbered cause, and files this its Original Answer to Plaintiff's Original Petition.

GENERAL DENIAL

1. QBE Specialty Insurance Company hereby denies generally each and every, all and singular, of the material allegations set forth by Plaintiff and demands strict proof thereof by a preponderance of the evidence.

PRAYER

WHEREFORE, PREMISES CONSIDERED QBE Specialty Insurance Company prays that Plaintiff take nothing by its suit, for costs of court, and for such other and further relief to which QBE Specialty Insurance Company may show itself to be justly entitled.

Processed On: 7/26/2019 3:58 PM
By: Melinda Barrientes, Deputy Clerk

Filed 7/26/2019 3:45 PM
Heather B. Marks
District Clerk
San Patricio County, Texas

Respectfully submitted,

/s/ Carter L. Ferguson

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**ATTORNEY FOR DEFENDANT QBE
SPECIALTY INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was forwarded to all counsel of record in accordance with the Texas Rules of Civil Procedure.

Via Electronic Filing

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ATTORNEY FOR PLAINTIFF

DATED this 26TH day of July, 2019.

/s/ Carter L. Ferguson

Carter L. Ferguson